

Appendix 1

Definitions

Note:

All statutory references are to the California Government Code. The Political Reform Act is found in Government Code sections 81000-91014. Commission regulations may be found in Title 2, sections 18109-18997 of the California Code of Regulations.

\$5,000 Filer

(Section 86115)

Any person who does not employ a lobbyist or contract with a lobbying firm, but who directly or indirectly makes payments of \$5,000 or more in any calendar quarter to influence legislative or administrative action.

Activity Expense

(Section 86111)

An expense that either wholly or partially benefits an elected state official, a legislative official, a state agency official, a state candidate, or a member of the immediate family of such an official or candidate. Activity expenses include gifts, honoraria, consulting fees, salaries, and any other form of compensation, but do not include campaign contributions.

Administrative Action

(Section 82002; Regulation 18202)

The proposal, drafting, development, consideration, amendment, enactment, or defeat by any state agency of any rule, regulation, or other action in any rate-making proceeding or any quasi-legislative proceeding.

“Rate-making proceeding” means, for the purposes of a proceeding before the Public Utilities Commission, any proceeding in which it is reasonably foreseeable that a rate will be established, including, but not limited

to, general rate cases, performance-based ratemaking, and other ratesetting mechanisms.

“Quasi-legislative proceeding” means, for purposes of a proceeding before the Public Utilities Commission, any proceeding that involves consideration of the establishment of a policy that will apply generally to a group or class of persons including, but not limited to, rulemakings and investigations that may establish rules affecting an entire industry.

Exception: A proceeding of a state agency is not a quasi-legislative proceeding if it is any of the following:

- A proceeding to determine the rights or duties of a person under existing laws, regulations, or policies;
- A proceeding involving the issuance, amendment, or revocation of a permit or license;
- A proceeding to enforce compliance with existing law or to impose sanctions for violations of existing law;
- A proceeding at which an action is taken involving the purchase or sale of property, goods, or services by such agency;
- A proceeding at which an action is taken that is ministerial in nature;
- A proceeding at which an action is taken awarding a grant or contract; or
- A proceeding involving the issuance of a legal opinion.

Administrative Testimony

(Regulation 18239)

Influencing or attempting to influence administrative action by acting as counsel in, appearing as a witness in, or providing written submissions, including answers to

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inquiries, which become part of the record of any regulatory or administrative agency's proceeding:

- Which is conducted as an open public hearing for which public notice is given;
- Of which a record is created in a manner that makes possible the creation of a transcript; and
- With respect to which full public access is provided to such record or transcript and to all written material that is submitted to become part of the record.

OR

Any communication made at a public hearing, public workshop, public forum, or included in the official record of any proceeding, as defined in section 82002(b) or (c), before the California Public Utilities Commission.

Agency Official

(Sections 82004 and 86111)

Any member, officer, employee, or consultant of a state agency whose administrative actions the lobbyist, lobbying firm, lobbyist employer/lobbying coalition, or \$5,000 filer has attempted or is attempting to influence. (Does not include persons who work in a purely clerical, secretarial, or ministerial position.)

Arranging a Gift

(Regulation 18624)

A lobbyist arranges for the making of a gift if the lobbyist, either directly or through an agent, does any of the following:

- Delivers a gift to a recipient;
- Acts as the representative of the donor, if the donor is not present at the occasion of a gift. This does not include accompanying the recipient to an event where the donor will be present;
- Invites or sends an invitation to an intended recipient regarding the occasion of a gift;

- Solicits responses from an intended recipient concerning his or her attendance or nonattendance at the occasion of a gift;
- Is designated as the representative of the donor to receive responses from an intended recipient concerning his or her attendance or nonattendance at the occasion of a gift; or
- Acts as an intermediary in connection with the reimbursement of a recipient's expenses.

Elected State Officer

(Sections 82021 and 82024)

Any person who holds the office of Governor, Lieutenant Governor, Attorney General, Controller, Secretary of State, Treasurer, Superintendent of Public Instruction, Insurance Commissioner, Member of the Legislature, Member elected to the Board of Administration of the Public Employees' Retirement System, Member of the State Board of Equalization, or any person who has been elected to such an office but has not yet taken office. A person who is appointed to fill a vacant elective state office is an elected state officer.

Exceptions to Gift and Exceptions to Gift Limits

(Regulation 18942)

- (a) None of the following is a gift and none is subject to any limitation on gifts:
- (1) Informational material as defined by regulation 18942.1.
 - (2) Except for passes and tickets as provided in regulation 18946.1, a gift that is not used and that, within 30 days after receipt, is returned or donated pursuant to regulation 18943, or for which reimbursement is paid pursuant to regulation 18943.
 - (3) A gift from an individual's spouse, child, parent, grandparent,

- grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin or the spouse of any such person, unless the donor is acting as an agent or intermediary for any person not identified in this subdivision (a)(3).
- (4) A campaign contribution required to be reported under the Government Code, Title 9, Chapter 4 (commencing with section 84100).
 - (5) Any devise or inheritance.
 - (6) A personalized plaque or trophy with an individual value of less than two hundred fifty dollars (\$250).
 - (7) Hospitality (including food, beverages, or occasional lodging) provided by an individual in his or her home when the individual or a member of the individual's family is present, to an official. (Note: See regulation 18630 for the rule concerning "home hospitality" provided by a lobbyist.)
 - (8) Presents exchanged between an official who is required to file a statement of economic interests and an individual, other than a lobbyist, on holidays, birthdays, or similar occasions provided that the presents exchanged are not substantially disproportionate in value.
 - (9) Leave credits, including vacation, sick leave, or compensatory time off, donated to an official in accordance with a bona fide catastrophic or similar emergency leave program established by the official's employer and available to all employees in the same job classification or position. This shall not include donations of cash.
 - (10) Payments received under a government agency program or a program established by a bona fide charitable organization exempt from taxation under Section 501(c)(3) of the Internal Revenue Code designed to provide disaster relief or food, shelter, or similar assistance to qualified recipients if such payments are available to members of the public without regard to official status.
 - (11) Free admission, and refreshments and similar non-cash nominal benefits provided to a filer during the entire event at which the filer gives a speech, participates in a panel or seminar, or provides a similar service, and actual intrastate transportation and any necessary lodging and subsistence provided directly in connection with the speech, panel, seminar, or service, including but not limited to meals and beverages on the day of the activity. These items are not payments and need not be reported by any filer.
 - (12) The transportation, lodging, and subsistence specified by regulation 18950.4.
 - (b) The following items, if they are otherwise gifts, are exempt from the limitations on gifts described in section 89503:
 - (1) Payments for transportation, lodging, and subsistence that are exempt from limits on gifts by section 89506 and regulation 18950, et seq.
 - (2) Wedding gifts.

Filer
(Section 82026)

A person who is required to file a report under the Political Reform Act.

Gift

(Section 82028)

Except as provided in Regulation 18942, a gift is any payment that confers a personal benefit to the extent that consideration of equal or greater value is not received and includes a rebate or discount in the price of anything of value unless the rebate or discount is made in the regular course of business to members of the public without regard to official status. Any person, other than a defendant in a criminal action, who claims that a payment is not a gift by reason of receipt of consideration has the burden of proving that the consideration received is of equal or greater value.

Gift

(Section 86201)

A gift made directly or indirectly to any state candidate, elected state officer, or legislative official, or to an agency official of any agency required to be listed on the registration statement of the lobbying firm or the lobbyist employer of the lobbyist.

Gift, Source

(Regulation 18945)

- (a) General Rule. A person is the source of a gift if the person makes a gift to an official and is not acting as an intermediary.
 - (1) If a person makes a payment to a third party and in fact directs and controls the use of the payment to make a gift to one or more clearly identified officials, the person is the source of the gift to the official or officials.
 - (2) Dues. If a person pays dues or makes similar payments for membership in a bona fide association, including any federation, confederation, or trade, labor or membership organization, some portion of which dues or similar

payments are used to make gifts to officials, that person is not the source of the gifts to those officials.

However, the person is the source of the gift if the sole or primary purpose of the dues or similar payments is to make gifts to officials.

- (b) Presumption of Source by Officials. An official may presume that the person delivering the gift or, if the gift is offered but has not been delivered, the person offering the gift to him or her is the source of the gift unless either of the following are met:
 - (1) The person delivering or offering the gift discloses to the official the actual source of the gift; or
 - (2) It is clear from the surrounding circumstances at the time the gift is delivered or offered that the person delivering or offering the gift is not the actual source of the gift.

Gifts to an Agency

(Regulation 18944.2)

- (a) A payment, which is a gift as defined in section 82028, is deemed a gift to a public agency, and not a gift to a public official, if all of the following requirements are met:
 - (1) The agency receives and controls the payment.
 - (2) The payment is used for official agency business.
 - (3) The agency, in its sole discretion, determines the specific official or officials who shall use the payment. However, the donor may identify a specific purpose for the agency's use of the payment, so long as the donor does not designate the specific official or officials who may use the payment.

- (4) The agency memorializes the payment in a written public record which embodies the requirements of subdivisions (a)(1) to (a)(3) above and which:
 - (A) Identifies the donor and the official, officials, or class of officials receiving or using the payment;
 - (B) Describes the official agency use and the nature and amount of the payment; and
 - (C) Is filed with the agency official who maintains the records of the agency's statements of economic interests where the agency has a specific office for the maintenance of such statements, or where no specific office exists for the maintenance of such statements, at a designated office of the agency, and the filing is done within 30 days of the receipt of the payment by the agency.
 - (b) Notwithstanding subdivisions (a)(3) and (a)(4) above, a donation to a California public college or university for a specific research project which is received consistent with the requirements of regulation 18702.4(c) and for meals received in the course of an official fundraising activity, which qualify under federal and state law for a deduction as a charitable contribution for educational purposes, is deemed a gift to the college or university.
- Gifts of Travel; Exceptions**
(Regulation 18950.1)
- The following provisions apply to payments made for travel pursuant to sections 89501 through 89506:
- (a) Travel In Connection With Speeches, Panels, and Seminars.
 - (1) Only a reportable payment is subject to the limitations on gifts specified in section 89503. See regulation 18950.3, to determine whether a payment in connection with a speech, panel, or seminar is reportable.
 - (2) A payment made for travel, including actual transportation and related lodging and subsistence, is not subject to the prohibitions or limitations on honoraria and gifts specified in sections 89501, 89502, or 89503 if:
 - (A) The travel is reasonably related to a legislative or governmental purpose, or to an issue of state, national, or international public policy, and
 - (B) The travel, including actual transportation and related lodging and subsistence, is in connection with a speech given by the official or candidate; the lodging and subsistence expenses are limited to the day immediately preceding, the day of, and the day immediately following the speech; and the travel is within the United States.
 - (b) Travel Provided By Governmental Entity or Charity. A payment made for travel, including actual transportation and related lodging and subsistence, is not subject to the prohibitions or limitations on honoraria and gifts specified in sections 89501, 89502, or 89503 if:
 - (1) The travel is reasonably related to a legislative or governmental purpose, or to an issue of state, national, or international public policy; and
 - (2) The payment is provided by a government, a governmental agency, a foreign government, a governmental authority, a bona fide public or private educational

institution, defined in section 203 of the Revenue and Taxation Code, or by a nonprofit organization that is exempt from taxation under section 501(c)(3) of the Internal Revenue Code, or by a person that is domiciled outside the United States and that substantially satisfies the requirements for tax exempt status under section 501(c)(3) of the Internal Revenue Code.

- (c) **Travel Paid From Campaign Funds.** A payment made for transportation and necessary lodging and subsistence, which payment is made from campaign funds as permitted by section 89513, or which is a contribution, is not an honorarium or a gift.
- (d) **Travel Provided By Official's Agency.** A payment made for transportation and necessary lodging and subsistence, which payment is made by the agency of an official, is not an honorarium or a gift.
- (e) **Travel In Connection With Bona Fide Business.** A payment made for transportation, lodging, and subsistence, which payment is reasonably necessary in connection with a bona fide business, trade, or profession, and which satisfies the criteria for federal income tax deductions for business expenses specified in sections 162 and 274 of the Internal Revenue Code, is not an honorarium or gift unless the sole or predominant activity of the business, trade or profession is making speeches.

Home Hospitality

(Section 86203; Regulation 18630)

- (a) The cost of providing hospitality involving food, beverage, or occasional lodging at the home of a lobbyist is a gift within the meaning of section 86203 and is reportable under the provisions of section 86113 only if:

- (1) Any part of the cost of such hospitality is paid for by the lobbyist's employer or lobbying firm directly; or
 - (2) The lobbyist is reimbursed by his or her lobbyist employer or lobbying firm for any part of the cost of such hospitality; or
 - (3) The lobbyist deducts any part of the cost of such hospitality as a business expense on any tax return, either State or Federal; or
 - (4) There is an understanding between the lobbyist and his or her lobbyist employer or lobbying firm that the amount of compensation received by the lobbyist includes a portion to be utilized by the lobbyist to provide gifts of hospitality in the lobbyist's home.
- (b) In determining the applicability of subsections (a)(1) through (a)(4) above, the cost of providing hospitality does not include any part of the value or rental of the home of the lobbyist, nor does it include any depreciation on the premises where the hospitality is extended.

Immediate Family

(Section 82029)

The spouse or dependent child of an official.

Influencing Legislative or Administrative Action

(Section 82032 and regulation 18239)

Communicating directly with any elective state official, legislative official, or state agency official or taking any other action for the principal purpose of promoting, supporting, influencing, modifying, opposing, delaying, or advancing any legislative or any administrative action.

Influencing legislative or administrative action, or "lobbying activity," is broadly defined to include such activities as following bills and regulations that one is attempting to

influence, preparing testimony, attending hearings and floor debates, arranging for witnesses, waiting to meet with officials or staff, communicating with employers, and administering a lobbyist's office - all for the purpose of promoting, supporting, modifying, opposing, delaying, or advancing legislative or administrative action.

Legislative Action (Section 82037)

The drafting, introduction, consideration, modification, enactment, or defeat of any bill, resolution, amendment, report, nomination, or other matter by the Legislature or by either house or any committee, subcommittee, joint or select committee thereof, or by a member or employee of the Legislature acting in his or her official capacity. Legislative action also means the action of the Governor in approving or vetoing any bill.

Legislative Official (Section 82038)

Any employee or consultant of the Legislature whose duties are not solely secretarial, clerical, or manual.

Lobbying Coalition (Regulation 18616.4)

A group of 10 or more persons formed primarily to influence legislative or administrative action, whose members make payments to the coalition for the purpose of sharing the expenses of employing a lobbyist or contracting for the services of a lobbying firm.

Lobbying Firm (Section 82038.5; Regulation 18238.5)

Any business entity, including an individual contract lobbyist, which meets either of the following criteria:

- (1) The business entity receives or becomes entitled to receive any compensation,

other than reimbursement for reasonable travel expenses, for the purpose of influencing legislative or administrative action on behalf of any other person, and any partner, owner, officer, or employee of the business entity is a lobbyist.

- (2) The business entity receives or becomes entitled to receive \$5,000 in compensation in any calendar quarter other than reimbursement for reasonable travel expenses, to communicate directly with any elective state official, agency official, or legislative official, for the purpose of influencing legislative or administrative action on behalf of any other person.

Lobbyist (Section 82039; Regulation 18239)

A lobbyist is an individual who:

- (1) Receives or becomes entitled to receive \$2,000 or more in compensation in any calendar month for engaging in direct communication, other than administrative testimony, with one or more qualifying officials for the purpose of influencing legislative or administrative action on behalf of any person other than his or her employer; or
- (2) Spends one-third or more of the time, in any calendar month, for which he or she receives compensation only from his or her employer for engaging in direct communication, other than administrative testimony, with one or more qualifying officials for the purpose of influencing legislative or administrative action.

A person is not a lobbyist who:

- Attempts to influence on a voluntary basis without any compensation;
- Only engages in administrative testimony; or
- Only meets or speaks with a qualifying official in the company of a registered

lobbyist retained by the individual or individual's employer or by a bona fide trade association or membership organization of which the individual or individual's employer is a bona fide member.

Lobbyist Employer

(Section 82039.5; Regulation 18239.5)

Any person, other than a lobbying firm, who either:

- (1) Employs one or more lobbyists for economic consideration, other than reimbursement for reasonable travel expenses, for the purpose of influencing legislative or administrative action; or
- (2) Contracts for the services of a lobbying firm for economic consideration, other than reimbursement for reasonable travel expenses, for the purpose of influencing legislative or administrative action.

Lobbyist Contributions: Making a Contribution

(Section 85702; Regulation 18752)

A lobbyist makes a contribution when any of the following occurs:

- He or she mails, delivers, or otherwise transmits to an elected state officer, a candidate for elective state office or his or her controlled committee, or to a committee primarily formed to support or oppose such a candidate, that the lobbyist is registered to lobby, a contribution as defined in section 82015 and regulation 18215, and the contribution is made from the lobbyist's personal funds or assets. A contribution will be deemed to be made from a lobbyist's personal funds or assets when the contribution is made from assets that are the personal property of the lobbyist, unless pursuant to regulation 18533 the contribution is attributed to another person.

- The contribution is made by a business entity, including a lobbying firm, owned in whole or in part by a lobbyist, and the lobbyist participates in the decision to make the contribution.
- The contribution is made from funds of a committee comprised in part of personal funds or resources of a lobbyist and the lobbyist participates in the decision to make the contribution.

A lobbyist does not make a contribution simply by advising his or her client or lobbyist employer regarding the making of a contribution.

Payment to Influence Legislative or Administrative Action

(Section 82045)

A payment to influence legislative or administrative action is a payment:

- Made directly or indirectly to a lobbyist whether for salary, fee, compensation for expenses, or any other purpose, by a person employing or contracting for the services of the lobbyist separately or jointly with other persons;
- Made in support or assistance of a lobbyist or his or her activities, including but not limited to the direct payment of expenses incurred at the request or suggestion of the lobbyist;
- Which directly or indirectly benefits any elective state official, legislative official, agency official, or a member of the immediate family of any such official;
- For compensation or reimbursement for the services, time, or expenses of an employee, for or in connection with, direct communication with any elective state official, legislative official, or agency official;
- For or in connection with soliciting or urging other persons to enter into direct communication with any elective state

official, legislative official, or agency official.

Payments for Travel In Connection with Campaign Activities (Regulation 18950.4)

Except as provided in regulation 18727.5, a payment made to an elected officer or candidate for his or her transportation, lodging, or subsistence is a gift unless the transportation, lodging, or subsistence provided to the elected officer or candidate is in “direct connection” with campaign activities, including attendance at political fundraisers.

- (1) Any payment made to an elected officer or candidate for his or her transportation, lodging, or subsistence, during the six month period prior to an election in which the elected officer or candidate is to be voted upon is considered “in direct” connection with campaign activities if the payment is for necessary transportation, lodging, or subsistence, used specifically for the purpose of the elected officer’s or candidate’s:
 - (A) Participation in candidate forums, debates or similar voter gatherings at which he or she makes a speech; or
 - (B) Attendance at meetings with campaign staff or political consultants to develop or implement campaign strategy.
- (2) A payment made to an elected officer or candidate for necessary transportation to, or lodging and subsistence at, an event described in subdivision (a)(1)(A) or subdivision (a)(1)(B), but not made within the six month period prior to the election in which the elected officer or candidate is being voted upon, is considered a gift unless it is clear from the surrounding circumstances that the payment is made directly in connection with campaign activities.

- (b) When a payment is made to an elected officer or candidate for his or her necessary lodging and subsistence or transportation in direct connection with attendance at a political fundraiser or an event listed in subdivision (a)(1)(A) or subdivision (a)(1)(B), which fundraiser event is conducted to benefit another elected officer or candidate, or to benefit a committee as defined in section 82013 (a), the payment is a contribution to the officer, candidate, or committee benefiting from the fundraiser.

Person (Section 82047)

An individual, proprietorship, firm, partnership, joint venture, syndicate, business trust, company, corporation, limited liability company, association, committee, and any other organization or group of persons acting in concert.

Qualifying Official (Regulation 18239)

Any elected state official, any legislative official, or any appointed, elected, or statutory member or director of any state agency. “Qualifying official” also means any staff member of any state agency who makes direct recommendations to any appointed, elected, or statutory member or director of any state agency, or who has decision-making authority concerning such recommendations.

Reportable Lobbying Services (Regulation 18614)

- (a) The following payments from a client to a lobbying firm are considered payments for lobbying services:
 - (1) Payments for services related to a matter on which the client expressly or implicitly authorizes the lobbying firm to communicate directly with an

elected state official, legislative official or agency official for the purpose of influencing legislative or administrative action.

- (2) Payments for legislative-related services only if, within one year after the services are provided, the client, either directly or through an affiliated entity, expressly or implicitly authorizes the lobbying firm to communicate directly with an elected state official, legislative official or agency official for the purpose of influencing legislative or administrative action on the same or substantially the same matter.
 - (3) Payments for research or preparation of a proposed initiative measure only if, within one year after the initiative-related services are provided, the client, either directly or through an affiliated entity, expressly or implicitly authorizes the lobbying firm to communicate directly with an elected state official, legislative official or agency official for the purpose of influencing legislative or administrative action on the same or substantially the same matter. However, such payments need not be reported if they are required to be disclosed, and are in fact disclosed pursuant to Chapter 4 (commencing with section 84100) of Title 9 of the Government Code.
- (b) The following payments from a client to a lobbying firm are not considered payments for lobbying services:
- (1) Payments for litigation.
 - (2) Payment for legislative-related or initiative-related services performed by a lobbying firm for a client which are not reportable pursuant to subsections (a)(2) or (a)(3). However, payments for legislative-related

services must be reported by the client as “other payments to influence legislative or administrative action” pursuant to section 86116(i) if either of the following applies:

- (A) At the time the payment is made, the client is required to be registered on the lobbying firm’s registration statement.
 - (B) Within one year after the services are provided, the client, either directly or through an affiliated entity, expressly or implicitly authorizes another lobbying firm or a lobbyist employed by the client to communicate directly with an elected state official, legislative official or agency official for the purpose of influencing legislative or administrative action on the same or substantially the same matter.
- (c) The following definitions apply to this section:
- (1) “Legislative-related services” includes researching, monitoring, analyzing or drafting statutes, regulations or pending or proposed legislative or administrative action, providing advice or recommending strategy concerning pending or proposed legislative or administrative action, and similar services in the absence of express or implied authorization to engage in direct communication.
 - (2) “Direct communication” means appearing as a witness before, talking to (either by telephone or in person), corresponding with, or answering questions or inquiries from, any elected state official, legislative official or agency official, either personally or through an agent who acts under one’s direct supervision, control or direction.

- (3) “Affiliated entity” includes, but is not limited to, an organization which has a parent or subsidiary relationship to the client, an organization that is primarily funded or managed by the client or the parent entity of the client, or an organization of which the client is a member.
- (d) When a payment for initiative-related or legislative-related services made to a lobbying firm in a previous reporting period must be reported retroactively pursuant to this section, the payment must be reported on the report for the then current calendar quarter and the lobbying firm and lobbyist employer must indicate the calendar quarter in which the payment was made or received. If the payment was previously reported in the current calendar year as “other payments to influence legislative or administrative action,” the lobbyist employer must indicate on the report for the then current calendar quarter that the amount has been deducted from “other payments to influence legislative or administrative action” and instead reported as a payment to a lobbying firm. For purposes of subsections (a)(2) and (a)(3), the lobbying firm and lobbyist employer must indicate, in addition to the information required by regulations 18613(a) and 18616(b), that the payment was for initiative-related or legislative-related services and the date upon which the person making the payment or the affiliated entity authorized the lobbying firm to engage in direct communication.
- (e) This section shall not be construed to require any entity to report payments it receives for services prior to the calendar quarter in which the entity qualifies as a lobbying firm.

State Agency

(Section 82049; Regulation 18249)

Every state office, department, division, bureau, board, and commission, and the Legislature.

Travel in Connection with Speeches, Panels, and Seminars: Exception for All Filers

(Regulation 18950.3)

Free admission, and refreshments and similar non-cash nominal benefits provided to a filer during the entire event at which the filer gives a speech, participates in a panel or seminar, or provides a similar service, and actual intrastate transportation and any necessary lodging and subsistence provided directly in connection with the speech, panel, seminar, or service, including but not limited to meals and beverages on the day of the activity, are not payments and need not be reported by any filer.